

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL GILDO,

Plaintiff,

-against-

NO WEATHER, LLC,

Defendant.

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19cv3398

ORDER

WILLIAM H. PAULEY III, Senior United States District Judge:

On July 1, 2019, the Clerk of Court issued a Certificate of Default against Defendant No Weather, LLC. (ECF No. 9.) On August 28, 2019, Plaintiff moved for default judgment. (ECF No. 15.) While Defendant has neither appeared in this action nor opposed the motion, Plaintiff has failed to certify that he even served Defendant with: (1) this Court's July 9, 2019 Order fixing the default judgment briefing schedule (ECF No. 12), and (2) Plaintiff's motion for default judgment and accompanying papers (ECF Nos. 15–19). Accordingly, Plaintiff's motion for default judgment is denied without prejudice. This Court also orders the following:

- (1) Plaintiff shall refile his motion for default judgment by December 10, 2019. Plaintiff shall serve the motion—along with any accompanying papers—and this Order on the Secretary of State and on Defendant at its principal place of business. Plaintiff shall note service on the docket.
- (2) Any opposition to Plaintiff's motion shall be filed by January 10, 2020.
- (3) Plaintiff shall file any reply by January 17, 2020.

Moreover, having reviewed Plaintiff's motion and accompanying papers, this Court is skeptical of Plaintiff's request for \$2,975 in attorneys' fees. And this Court is especially troubled by Plaintiff's counsel's representation that he spent 3.5 hours “[d]raft[ing] and

research[ing] [the] application for default judgment, including [his] declaration.”¹ (ECF No. 16, at 5.) “Both documents . . . closely resemble documents [Plaintiff’s counsel] has submitted in many other copyright infringement cases.” Whitehead v. Mix Unit, LLC, 2019 WL 384446, at *6 (S.D.N.Y. Jan. 31, 2019). As such, in refiling his motion, Plaintiff would be well advised to understand that this Court will not award fees for excessive time spent in assembling stock documents.

The Clerk of Court is directed to terminate the motion pending at ECF No. 15.

Dated: December 3, 2019
New York, New York

SO ORDERED:



WILLIAM H. PAULEY III
U.S.D.J.

¹ Despite having purportedly spent 3.5 hours on these tasks, this Court observes that Plaintiff’s counsel forgot to fill in Defendant’s name in the second paragraph of his boilerplate affidavit. (ECF No. 16, ¶ 2.)